

PARENTING PLAN AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

Committee Note:

The Judiciary Interim Committee recommended this bill.

General Description:

This bill modifies provisions related to parenting plans.

Highlighted Provisions:

This bill:

- ▶ lists decisions related to an education plan;
- ▶ addresses who makes the education plan; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10.9, as last amended by Laws of Utah 2017, Chapter 224

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **30-3-10.9** is amended to read:

30-3-10.9. Parenting plan -- Objectives -- Required provisions -- Dispute



28 **resolution.**

- 29 (1) The objectives of a parenting plan are to:
- 30 (a) provide for the child's physical care;
- 31 (b) maintain the child's emotional stability;
- 32 (c) provide for the child's changing needs as the child grows and matures in a way that
- 33 minimizes the need for future modifications to the parenting plan;
- 34 (d) set forth the authority and responsibilities of each parent with respect to the child
- 35 consistent with the definitions outlined in this chapter;
- 36 (e) minimize the child's exposure to harmful parental conflict;
- 37 (f) encourage the parents, where appropriate, to meet the responsibilities to their minor
- 38 children through agreements in the parenting plan rather than relying on judicial intervention;
- 39 and
- 40 (g) protect the best interests of the child.
- 41 (2) The parenting plan shall contain provisions for resolution of future disputes
- 42 between the parents, allocation of decision-making authority, and residential provisions for the
- 43 child, and provisions addressing notice and parent-time responsibilities in the event of the
- 44 relocation of either party. It may contain other provisions comparable to those in Sections
- 45 [30-3-5](#) and [30-3-10.3](#) regarding the welfare of the child.
- 46 (3) A process for resolving disputes shall be provided unless precluded or limited by
- 47 statute. A dispute resolution process may include:
- 48 (a) counseling;
- 49 (b) mediation or arbitration by a specified individual or agency; or
- 50 (c) court action.
- 51 (4) In the dispute resolution process:
- 52 (a) preference shall be given to the provisions in the parenting plan;
- 53 (b) parents shall use the designated process to resolve disputes relating to
- 54 implementation of the plan, except those related to financial support, unless an emergency
- 55 exists;
- 56 (c) a written record shall be prepared of any agreement reached in counseling or
- 57 mediation and provided to each party;
- 58 (d) if arbitration becomes necessary, a written record shall be prepared and a copy of

59 the arbitration award shall be provided to each party;

60 (e) if the court finds that a parent has used or frustrated the dispute resolution process
61 without good reason, the court may award ~~[attorney's]~~ attorney fees and financial sanctions to
62 the prevailing parent;

63 (f) the district court ~~[shall have]~~ has the right of review from the dispute resolution
64 process; and

65 (g) the provisions of this Subsection (4) shall be set forth in any final decree or order.

66 (5) (a) ~~[The]~~ Subject to the other provisions of this Subsection (5), the parenting plan
67 shall allocate decision-making authority to one or both parties regarding the [children's] child's
68 education, ~~[health care]~~ healthcare, and religious upbringing. The parties may incorporate an
69 agreement related to the care and growth of the [children] child in these specified areas or in
70 other areas into [their] the plan, consistent with the criteria outlined in Subsection 30-3-10.7(2)
71 and Subsection (1). Regardless of the allocation of decision-making in the parenting plan,
72 either parent may make emergency decisions affecting the health or safety of the child.

73 (b) A child's education plan shall designate the following:

74 (i) the home residence for purposes of identifying the appropriate school or another
75 specific plan that provides for where the child will attend school;

76 (ii) which parent has authority to make education decisions for the child if the parents
77 cannot agree; and

78 (iii) whether one or both parents have access to the child during school and authority to
79 check the child out of school.

80 (c) If no education provision is included in the parent plan:

81 (i) a parent with sole physical custody shall make the decisions listed in Subsection
82 (5)(b);

83 (ii) in the event of joint physical custody when one parent has custody a majority of the
84 time, pursuant to Subsection 30-3-10.3(4):

85 (A) the parent having the child the majority of the time shall make the decisions listed
86 in Subsections (5)(b)(i) and (ii); and

87 (B) both parents with joint physical custody shall have access to the child during
88 school and authority to check the child out of school; or

89 (iii) in the event of joint physical custody when the parents have custody an equal

90 amount of time:

91 (A) the court shall determine how the decisions listed in Subsections (5)(b)(i) and (ii)
92 are made; and

93 (B) both parents with joint physical custody shall have access to the child during
94 school and authority to check the child out of school.

95 (6) Each parent may make decisions regarding the day-to-day care and control of the
96 child while the child is residing with that parent.

97 (7) When mutual decision-making is designated but cannot be achieved, the parties
98 shall make a good faith effort to resolve the issue through the dispute resolution process.

99 (8) The plan shall include a residential schedule [~~which~~] that designates in which
100 parent's home each minor child shall reside on given days of the year, including provisions for
101 holidays, birthdays of family members, vacations, and other special occasions.

102 (9) If a parent fails to comply with a provision of the parenting plan or a child support
103 order, the other parent's obligations under the parenting plan or the child support order are not
104 affected. Failure to comply with a provision of the parenting plan or a child support order may
105 result in a finding of contempt of court.

106 (10) (a) When one or both parents are servicemembers, the parenting plan shall contain
107 provisions that address the foreseeable parenting and custodial issues likely to arise in the event
108 of notification of deployment or other contingency, including long-term deployments,
109 short-term deployments, death, incapacity, and noncombatant evacuation operations.

110 (b) The provisions in the parenting plan described in Subsection (10)(a) shall comport
111 substantially with the requirements of an agreement made pursuant to Section [78B-20-201](#).

Legislative Review Note
Office of Legislative Research and General Counsel